

## REMARKS

Claims 5 to 8 are pending in the application.

### Rejection under 35 U.S.C. 102

Claims 5-7 stand rejected under 35 U.S.C. 102(b) as being anticipated by *Totani* (US 2004/0258332).

Claim 5 has been amended to now define a gusseted bag wherein upper end areas of the gussets have top edges (17) and are folded over toward one of the bag walls at a folding line (13) and form folded-over end areas. The folding line (13) is oriented in a direction toward the bottom end at a first slant inwardly and downwardly and the top edges (17) in the folded over end areas extend also toward the bottom end at a second slant inwardly and downwardly. This orientation of the top edges (17) in the folded over position is shown, for example, in Fig. 1.

Moreover, it is set forth in claim 5 that the first, second, and third welding seams (14, 15, 16) form a fused connection in the form of a complete seal in which the top (upper) edges (17) are embedded so that the top edges are closed. This is shown in Fig. 1, for example, and is described in the specification on page 1, 4th paragraph, and page 3, 1st and 2nd full paragraphs. Fig. 5 in particular shows how the fused areas 14, 15, 16 together form a fused connection with embedded top edges in the material of the fused connection; the top edges are enclosed in the material and thus closed or sealed.

In accordance with the present invention, it is important that the upper ends 12 and the top edges 17 of the gussets are closed off tightly; this is achieved by a fused connection that forms a complete seal (cross-hatched areas in Fig. 1 having upper boundary 13 and ending with area 16 at the lower end). The top edges (17) are embedded in this continuous fused area (see Fig. 5) so that the top edges 17 are tightly closed or sealed.

Also, as is apparent when looking at Fig. 1, the fusing seams 6 and 7 to be formed along the longitudinal edges of the bag must not be formed across extra layers of the folded over gusset ends as the top edges 17 are not folded into the seam areas 6, 7 so that seams 6, 7 can be produced easily.

*Totani* does not show that the upper edges 12 or 15, after the end portions have

been folded to the triangular flap 13, extend toward the bottom end of the bag at a second slant inwardly and downwardly. The upper edges 12 or 15, as shown in Figs. 1, 2, 5, 8, 9, 10, always extend along and parallel the longitudinal side edges 3 of the panels so that the upper edges 12/15 are incorporated along the opposite edges 3 by the longitudinal seams 6. This means that along the longitudinal edges 3 a total of six layers of material (doubled over gusset = 4 layers; front panel and back panel = 2 layers) must be sealed across the length of the edges 12/15. But the two faces of the gusset that lie on another (Fig. 3) are of a non-sealing material; see paragraph 0036:

“Each of the side gussets 1 has outer surfaces formed by the sealant and inner surfaces formed by the base material when being folded into halves. The triangular flap 13 has therefore outer surfaces formed by the sealant and inner surfaces formed by the base material. “

This means that in the folded over triangle the two inner surfaces cannot fuse and the edges 15 (see Fig. 4) facing outwardly in the folded-over arrangement of Fig. 4 will split open even when the seam 6 is formed top to bottom. Dirt and dust may get caught here; also, the two unfused layers may easily get caught on something and the seam 6 may be ripped open. Even though the sealing action relative to the interior of the bag is realized by the fold line itself, the edges 12/15 are not closed or sealed.

The inventive concept of positioning the top edges of the folded over end areas so as to extend toward the bottom end at a second slant inwardly and downwardly and of providing a fused connection in the form of a complete seal including the first, second, and third welding seams (cross-hatched areas of instant Fig. 1) so that the top (upper) edges are embedded within the fused connecting area and closed (sealed) is not disclosed and not obvious in view of *Totani et al.*

Reconsideration and withdrawal of the rejection of the claims 5 to 7 under 35 USC 102 are therefore respectfully requested.

### Rejection under 35 U.S.C. 103

Claim 8 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Totani* (US 2004/0258332) in view of *Wedi et al.* (US 6,398,412).

Claim 8 is believed to be allowable as a dependent claim of claim 5.

**CONCLUSION**

In view of the foregoing, it is submitted that this application is now in condition for allowance and such allowance is respectfully solicited.

Should the Examiner have any further objections or suggestions, the undersigned would appreciate a phone call or **e-mail** from the examiner to discuss appropriate amendments to place the application into condition for allowance.

Authorization is herewith given to charge any fees or any shortages in any fees required during prosecution of this application and not paid by other means to Patent and Trademark Office deposit account 50-1199.

Respectfully submitted on February 8, 2010,

/Gudrun E. Huckett/

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